

5/2003
FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAY 29 2009

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

JOHN D. MUNDING
CRUMB & MUNDING, P.S.
The Davenport Tower
111 S. Post Street, PH 2290
Spokane, WA 99201
509-624-6464
munding@crumb-munding.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

ERIC M. HENDRICKSON

Plaintiff.

Y

**UNIFUND CCR PARTNERS,
CREDIT CARD RECEIVABLES
FUND, INC., AND 2B LIMITED
PARTNERSHIP**

Defendants.

CASE NO. CV-09-161-EFS

**DEFENDANTS' NOTICE
OF REMOVAL**

Pursuant to 28 U.S.C. §1441, Defendants/Petitioners Unifund CCR Partners
Unifund"), Credit Card Receivables Fund, Inc. ("CCRF"), and ZB Limited
Partnership, incorrectly sued as 2B Limited Partnership ("ZBLP"), (collectively,
Defendants") hereby remove the above captioned case from the Superior Court for

NOTICE OF REMOVAL - 1

CRUMB & MUNDING, P.S.
THE DAVENPORT TOWER
111 S. POST STREET, PH 2290
SPOKANE, WA 99201
(509) 624-6464
FAX (509) 624-6155

1 the State of Washington, County of Spokane to the United States District Court for
2 the Eastern District of Washington. In support thereof, Defendants state as follows:
3

4 1. Defendants are the only defendants in a civil action entitled *Eric M.*
5 *Hendrickson v. Unifund CCR Partners, et al.*, served but not filed in the Superior
6 Court of Washington for Spokane County. This Notice of Removal is filed on
7 behalf of all Defendants.
8

9 2. In accordance with the requirements of 28 U.S.C. § 1446(b), this Notice
10 of Removal is filed within thirty (30) days after service by Plaintiff on the Secretary
11 of State for the State of Washington. This action was commenced on or about April
12 27, 2009. Plaintiff served the Complaint on the Secretary of State for the State of
13 Washington on April 30, 2009. The Secretary of State sent the Complaint to the
14 Defendants by certified mail on May 1, 2009, first received by CCRF's registered
15 agent for service of process on May 5, 2009. A copy of the Summons and
16 Complaint is attached as Exhibit 1. Exhibit 1 includes all process and pleadings
17 served upon Defendants to their knowledge. No further action has been taken in the
18 Superior Court of Washington.
19

20 3. Pursuant to 28 U.S.C. § 1441 et seq., the right exists to remove this case
21 from the Spokane County Superior Court of the State of Washington, County of
22 Spokane, to the United States District Court for the Eastern District of Washington.
23

1 4. This action asserts a claim that Defendants violated the federal Fair
2 Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq.
3

4 5. Because an action under the FDCPA is a civil action arising under the
5 Constitution, laws, or treaties of the United States, the United States District Court
6 has original jurisdiction over this action pursuant to 28 U.S.C. § 1331.
7

8 6. Plaintiff has also asserted a state law claim for violation of the
9 Washington Collection Agency Act. This Court should exercise jurisdiction over
10 the pendent state law claim because: (1) the federal FDCPA claim is sufficient to
11 confer subject matter jurisdiction on the Court; (2) the state and federal claims derive
12 from a common nucleus of operative fact; and (3) Plaintiff's claims are such that he
13 would ordinarily be expected to try them all in one judicial proceeding. Therefore,
14 removal of the entire action is appropriate pursuant to 28 U.S.C. § 1441.
15
16

17 7. Notice of the filing of the notice of removal will be given to all parties
18 and the Clerk of Court in accordance with 28 U.S.C. § 1446(d), and this Notice of
19 Removal will be served upon counsel for Plaintiff as required by law.
20
21

22 8. Defendants are concurrently filing their Answer to the Complaint, a
23 copy of which is attached as Exhibit 2.
24
25

26 9. Unifund, CCRF, and ZBLP are also filing Corporate Disclosure
27 Statements, which is attached hereto as Exhibits 3.
28

1 WHEREFORE, Defendants, Unifund CCR Partners, Credit Card Receivables
2 Fund, Inc., and ZB Limited Partnership hereby remove this action from the Spokane
3 County Superior Court to this Court.
4

5 Respectfully submitted, this 29 day of May, 2009.

6 CRUMB & MUNDING, P.S.
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10 JOHN D. MUNDING, WSBA 21734
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JOHN D. MUNDING, WSBA 21734
Attorneys for Defendants

EXHIBIT 1

Notice of
Removal 05

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FILED
SECRETARY OF STATE
APR 30 2009
STATE OF WASHINGTON

SUPERIOR COURT OF WASHINGTON
FOR SPOKANE COUNTY

Eric M. Hendrickson,

Plaintiff,

v.

Unifund CCR Partners; Credit Card
Receivables Fund, Inc.; and 2B Limited
Partnership;

SUMMONS
(30 DAY RCW 23B.15.100(3))

Defendants.

TO THE DEFENDANTS:

A lawsuit has been started against you in the above entitled court by the Plaintiff. The Plaintiff's claim is stated in the Complaint which was served on you with this Summons.

In order to defend against this law suit, you must respond to the Complaint by stating your defenses in writing, serving a copy on the Plaintiff within thirty (30) days

SUMMONS - 1

Notice of
Removal 06



DURKOP LAW OFFICE
2312 N. Cherry Street, Suite #100
Spokane Valley, WA 99216
(509)928-3848 FAX 279-0879
mail@durkoplaw.com

2 after the day you were served this Summons. This Summons is being served on the
4 Secretary of the State of Washington since you have no registered agent within the
6 state of Washington and is considered served on the date received by the Secretary
8 of State. If you fail to respond within the 30 days as required, Plaintiff may secure
10 a default judgement. A default judgement is one in which the Plaintiff is entitled to
12 what he has asked for in the Complaint. If you serve a Notice of Appearance on the
14 Plaintiff, you are entitled to notice before a default judgement will be entered.

16 If this action has not been filed with the court, you may demand that the
18 plaintiff file this action with the court. If you do so, the demand must be in writing
20 and must be served upon the person publishing this summons. Within 14 days after
22 you serve the demand, the plaintiff must file this action with the court, or the service
24 on you of this summons will be void.

26 If you wish to seek the advise of an attorney you should do so promptly so that
28 your written response may be timely served.

30 This summons is issued pursuant to rule 4 of the Superior Court Civil Rules.

32
34 Dated: April 27, 2009

36 
38 Timothy W. Durkop 22985
40 Attorney for the Plaintiff

SUMMONS - 2

Notice of
Removal 07



DURKOP LAW OFFICE
2312 N. Cherry Street, Suite #100
Spokane Valley, WA 99216
(509)828-3848 FAX 279-0879
mail@durkoplaw.com

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FILED
SECRETARY OF STATE
APR 30 2009
STATE OF WASHINGTON

SUPERIOR COURT OF WASHINGTON
FOR SPOKANE COUNTY

Eric M. Hendrickson,

Plaintiff,

v.

Unifund CCR Partners; Credit Card
Receivables Fund, Inc.; and 2B Limited
Partnership;

Defendants.

COMPLAINT FOR VIOLATIONS OF
THE FAIR DEBT COLLECTION
PRACTICES ACT

The plaintiff alleges as follows:

1. The court has jurisdiction over the subject matter and parties herein. Plaintiff resides in Spokane County Washington. The defendants attempted to collect a debt in Spokane County thereby subjecting themselves to the jurisdiction of Washington Courts. The claims involve violations of Federal Collection law. Venue in Spokane County is appropriate since the violations of collection agency law occurred within

COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION
PRACTICES ACT - 1

Notice of
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2312 N. Cherry Street, Suite #100
Spokane Valley, WA 99216
(509)928-3848 FAX 279-0879
mail@durkoplaw.com

2 Spokane County, and the plaintiff resides in Spokane County.

4 2. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).

6 3. Defendants were each attempting to collect a "debt" as defined by FDCPA, 15 USC
8 § 1692a(5). The alleged debt was an obligation or alleged obligation of the Plaintiff
10 to pay money arising out of a transaction primarily for personal, family, or household
12 purposes.

14 4. Defendants are each a "debt collector" as defined by FDCPA, 15 USC §1692a(6).

16 5. Defendant, Unifund CCR Partners, is an "out-of-state collection agency" as defined
18 by the WCAA, RCW 19.16.100. Defendant, Credit Card Receivables Fund, Inc., is
20 an "out-of-state collection agency" as defined by the WCCA, RCW 19.16.100.
22 Defendant 2B Limited Partnership is an "out-of-state collection agency" as defined
24 by the WCCA, RCW 19.16.100.

28 6. Defendant, Capital Liquidators, LLC, is a limited liability company which does
30 business in the state of Washington within the territorial jurisdiction of this court.

32 Defendant, Unifund CCR Partners, is a limited partnership which does business in the
34 state of Washington within the territorial jurisdiction of this court.

36 7. Defendant, Unifund CCR Partners, engages in the collection of debts which were
38 originally due to another by using the phone and mail and other means. Defendants,
40 Credit Card Receivables Fund, Inc. and 2B Limited Partnership are the general

**COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION
PRACTICES ACT - 2**



- 2 partners of Unifund CCR Partners.
- 4 8. The collection of debts is a matter of public interest and is a highly regulated industry.
- 6 9. The defendants purchased an account for collection and began reporting the item on
- 8 the Plaintiff's credit report. Plaintiff reviewed his credit report and saw line item upon
- 10 his credit report.
- 12 10. This account had been satisfied by a prior settlement agreement with the original
- 14 creditor. Plaintiff contacted the Defendants in an effort to get the matter resolved and
- 16 to stop the erroneous collection efforts. In his letter the plaintiff made clear that the
- 18 account was disputed and that the debt had been paid in full. This letter was sent in
- 20 December of 2008. Plaintiff has evidence of the receipt of this letter.
- 22 11. The defendants are obligated to report the matter as disputed on the Plaintiff's credit
- 24 report. The defendants failed to accurately report the account as disputed in violation
- 26 of the Fair Debt Collection Practices Act.
- 28 12. The acts of each defendant were done with the approval and authority of the other.
- 30 The defendants acted in concert with one another.
- 32 13. The forgoing conduct also violates the prohibited actions sections of the Federal Fair
- 34 Debt Collection Practices Act 15 U.S.C. 1692 *et seq.*
- 36 14. The plaintiff suffered damages as a result of the violations of state and federal law,
- 38 and continues to be damaged as a direct result of the defendants' negligence.
- 40

**COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION
PRACTICES ACT - 3**



15. The defendants' actions caused injury to the plaintiff's property.
 16. The Plaintiff is entitled to treble damages pursuant to the Washington Consumer Protection Act at the discretion of the court, and all remedies pursuant to the Washington Collection Agency Act.

WHEREFORE, the plaintiff prays to the court for the following relief:

1. This court enter a money judgment in favor of the Plaintiff and against the Defendants jointly and severally for general damages for stress, aggravation and other emotional damages of \$10,000.00;
 2. This court enter a money judgment in favor of the Plaintiff and against the Defendants jointly and severally for statutory damages under the Consumer Protection Act of \$10,000.00;
 3. This court enter a money judgment in favor of the Plaintiff and against the Defendants jointly and severally in the amount proven by the evidence for damages for out of pocket expenses;
 4. This court enter a money judgment in favor of the Plaintiff and against the Defendants jointly and severally in the amount of the attorney fees and costs of bringing this action;
 5. This court enter a money judgment in favor of the plaintiff and against the defendants individually in the amount of \$1,000.00 for statutory damages under the Fair Debt

**COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION
PRACTICES ACT - 4**



2 Collection Practices Act.

- 4 6. This court enter a declaratory judgment in favor of the Plaintiff and against the
6 Defendants jointly and severally declaring that the defendants violated the
8 Washington Collection Agency Act and that no party may collect any interest,
10 attorney fees, costs or anything except principal which may be due on the alleged debt
12 if one exists pursuant to RCW 19.16.450; and
14 7. Any other relief which the court deems just and equitable.
16

18 Dated: April 27, 2009

20 By:

22 
24 Timothy W. Durkop 22985
26 Attorney for the Plaintiff
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**COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION
PRACTICES ACT - 5**

Notice of
Removal 12



BURKOP LAW OFFICE
2312 N. Cherry Street, Suite #100
Spokane Valley, WA 99216
(509)928-3848 FAX 279-0879
mail@durkoplaw.com

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SPOKANE COUNTY

ERIC M. HENDRICKSON,) Case No.
Plaintiff,)
v.) NOTICE OF APPEARANCE FOR
UNIFUND CCR PARTNERS; CREDIT) DEFENDANTS
CARD RECEIVABLES FUND, INC.; and)
2B LIMITED PARTNERSHIP,)
Defendants.)

TO: The Clerk of the Court

AND TO: PLAINTIFFS, your attorney, Timoth Durkop

PLEASE TAKE NOTICE, that the law firm of Crumb & Munding, P.S. hereby enters an appearance on behalf of UNIFUND CCR PARTNERS, CARD RECEIVABLES FUND, INC., and 2B LIMITED PARTNERSHIP, Defendants, in the above referenced action, and directs that all further pleadings, notices, correspondence, and other than service of process, be served on the

1 undersigned as attorneys at the address stated below. Further that by this appearance, Defendants do
2 not waive any objection they have as to jurisdiction, venue, or sufficiency of process.

3
4 DATED this 20 day of May, 2009.

5 CRUMB & MUNDING, P.S.
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7
8 JOHN D. MUNDING, WSBA #21734
9 Attorneys for Defendants
10 The Davenport Tower
11 111 S. Post Street, PH 2290
Spokane, WA 99201
Phone: 509-624-6464
Fax: 509-624-6155
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EXHIBIT 2

Notice of
Removal 15

1 JOHN D. MUNDING
2 CRUMB & MUNDING, P.S.
3 The Davenport Tower
4 111 S. Post Street, PH 2290
5 Spokane, WA 99201
509-624-6464
5 munding@crumb-munding.com

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7 Attorneys for Defendants

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9 **UNITED STATES DISTRICT COURT**10 **EASTERN DISTRICT OF WASHINGTON**

11 ERIC M. HENDRICKSON)

13 Plaintiff,) CASE NO.

14 v.) **ANSWER TO COMPLAINT**16 UNIFUND CCR PARTNERS,)
17 CREDIT CARD RECEIVABLES)
18 FUND, INC., AND 2B LIMITED)
19 PARTNERSHIP)

Defendants.)

20

21

For their Answer to Plaintiff's Complaint, Defendants Unifund CCR Partners ("Unifund"), Credit Card Receivables Fund, Inc. ("CCRF"), and ZB Limited Partnership, incorrectly sued as 2B Limited Partnership, ("ZBLP") (collectively, "Defendants") state as follows. Paragraph numbers of the Answer correspond to

1 paragraph numbers of the Complaint. All allegations not specifically admitted are
2 denied.
3

4 **FIRST DEFENSE**

5 1. Plaintiff's allegations as to the jurisdiction and venue of the Superior
6 Court are moot because this case has been removed, but to the extent a response is
7 required as to those allegations, Defendants do not contest jurisdiction and venue for
8 purposes of this action only. Defendants deny Plaintiff's residence for lack of
9 knowledge or information sufficient to form a belief as to the truth of the same.
10 Defendants admit that Plaintiff purports to state a claim for violations of "Federal
11 Collection law" but deny any such violations. Defendants deny all allegations set
12 forth in Paragraph 1 not specifically admitted herein.
13
14

15 2. Paragraph 2 sets forth legal conclusions to which no response is required.
16 To the extent a response is required, Defendants admit that Plaintiff is a consumer for
17 purposes of this action only.
18
19

20 3. Paragraph 3 sets forth legal conclusions to which no response is required.
21 To the extent a response is required, Plaintiff fails to identify the debt allegedly being
22 collected; accordingly, Unifund denies for lack of knowledge or information sufficient
23 to form a belief as to the truth of the same that it attempted to collect a specific "debt"
24 from Plaintiff. CCRF and ZB deny that they attempted to collect any debt from
25 Plaintiff.
26

1 Plaintiff. Defendants otherwise deny the allegations set forth in paragraph 3 for lack
2 of knowledge or information sufficient to form a belief as to the truth of the same.
3

4 4. Paragraph 4 sets forth legal conclusions to which no response is required.
5 To the extent a response is required, Unifund admits for purposes of this action only
6 that it is a debt collector but denies any characterization of its actions with respect to
7 Plaintiff. CCRF and ZB deny that they are debt collectors.
8

9 5. Paragraph 5 sets forth legal conclusions to which no response is required.
10 To the extent a response is required, Unifund admits only that it is a licensed
11 Collection Agency in the State of Washington. CCRF and ZB deny that either of
12 them are an "out-of-state collection agency."
13

14 6. Capital Liquidators, LLC is not listed as a defendant in the caption of the
15 case or discussed anywhere else in the Complaint. Defendants therefore believe that
16 the reference to any such entity is a typographical error and otherwise deny all
17 allegations pertaining to Capital Liquidators, LLC for lack of knowledge or
18 information sufficient to form a belief as to the truth of the same. Unifund denies that
19 it is a limited partnership which does business in the State of Washington. Defendants
20 deny all allegations set forth in Paragraph 6 not specifically admitted herein.
21

22 7. Unifund admits that it collects debt but denies that Paragraph 7
23 accurately and completely describes its business. CCRF and ZB admit that they are
24

1 the general partners of Unifund. Defendants deny all allegations set forth in
2 Paragraph 7 not specifically admitted herein.
3

4 8. Paragraph 8 sets forth legal conclusions to which no response is required.

5 9. Unifund admits that it was assigned at least two accounts purportedly
6 opened by Plaintiff, but Plaintiff failed to specify the account at issue in his
7 Complaint. CCRF and ZB deny that they purchased any such account. Defendants
8 otherwise deny the allegations set forth in Paragraph 9 for lack of knowledge or
9 information sufficient to form a belief as to the truth of the same.
10

11 10. Plaintiff failed in his complaint to identify the account at issue. In
12 connection with an account in Plaintiff's name ending in 2579, Unifund denies that the
13 account has been settled upon the representation of the original creditor, who told
14 Unifund that the account has not been settled in full, and further told Unifund that
15 Plaintiff's attorney was advised of the same. Defendants deny all allegations set forth
16 in Paragraph 10 not specifically admitted herein.
17

18 11. Paragraph 11 sets forth legal conclusions to which no response is
19 required. To the extent a response is required, Defendants deny the allegations set
20 forth therein.
21

22 12. Denied.
23

1 13. Paragraph 13 sets forth legal conclusions to which no response is
2 required. To the extent a response is required, denied.
3

4 14. Paragraph 14 sets forth legal conclusions to which no response is
5 required. To the extent a response is required, denied.
6

7 15. Paragraph 15 sets forth legal conclusions to which no response is
8 required. To the extent a response is required, denied.
9

10 16. Paragraph 16 sets forth legal conclusions to which no response is
11 required. To the extent a response is required, denied.
12

13 Although no response is required, Defendants deny that Plaintiff is entitled to
any of the relief sought in his WHEREFORE clause.
14

SECOND DEFENSE

16 Plaintiff's Complaint fails to state a claim upon which relief may be granted.
17

THIRD DEFENSE

18 Plaintiff's claims may be barred by the equitable defenses of laches, unclean
19 hands, and equitable estoppel.
20

FOURTH DEFENSE

22 Plaintiff's damages, if any, were caused by the acts and/or omissions of third
23 parties for whose conduct Defendants are not responsible.
24

FIFTH DEFENSE

Plaintiff's claims are barred or limited to the extent he has not acted to mitigate his damages (if any).

SIXTH DEFENSE

To the extent that any violation of state or federal law took place, said violation was not intentional and resulted from a bona fide error that occurred notwithstanding the maintenance of procedures reasonably adopted to avoid such errors.

SEVENTH DEFENSE

Plaintiff may have waived any and all claims he may have had against Defendants.

EIGHTH DEFENSE

The Complaint fails to state a valid claim for declaratory relief as set forth in Plaintiff's WHEREFORE clause.

NINTH DEFENSE

Defendants reserve the right to amend or add further defenses as necessary.

PRAYER FOR RELIEF

WHEREFORE, Defendants request that this Court:

1. Dismiss Plaintiff's Complaint with prejudice;

1 2. Enter judgment in favor of Defendants and direct Plaintiff to recover
2 nothing from them; and
3

4 3. Grant Defendants such other and further relief as this Court deems just
5 and proper, including but not limited to their fees and costs for defending this action.
6

7 DATED this 29 day of May, 2009.
8

9 CRUMB & MUNDING, P.S.
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11 JOHN D. MUNDING, WSBA #21734
12 Attorneys for Defendants
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Notice of
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ANSWER - 7

CRUMB & MUNDING, P.S.
THE DAVENPORT TOWER
111 S. POST STREET, PH 2290
SPOKANE, WA 99201
(509) 624-6464
FAX (509) 624-6155

EXHIBIT 3

1 JOHN D. MUNDING
2 CRUMB & MUNDING, P.S.
3 The Davenport Tower
4 111 S. Post Street, PH 2290
5 Spokane, WA 99201
509-624-6464
5 munding@crumb-munding.com

6

7 Attorneys for Defendants

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9 **UNITED STATES DISTRICT COURT**

10 **EASTERN DISTRICT OF WASHINGTON**

11 ERIC M. HENDRICKSON)
12)
13 Plaintiff,) CASE NO.
14)
15 v.) DEFENDANTS CORPORATE
16) DISCLOSURE STATEMENT
17 UNIFUND CCR PARTNERS,)
18 CREDIT CARD RECEIVABLES)
18 FUND, INC., AND ZB LIMITED)
19 PARTNERSHIP)
19 Defendants.)
19 _____)

20 Pursuant to Federal Rule of Civil Procedure 7.1, Defendants Provide the
21 following Corporate Disclosure statements:

22 Unifund CCR Partners hereby states that it is an Ohio general partnership
23 whose general partners are Credit Card Receivables Fund, Inc. and ZB Limited
24

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Notice of
Removal 24

CORPORATE DISCLOSURE STATEMENTS - 1

CRUMB & MUNDING, P.S.
THE DAVENPORT TOWER
111 S. POST STREET, PH 2290
SPOKANE, WA 99201
(509) 624-6464
FAX (509) 624-6155

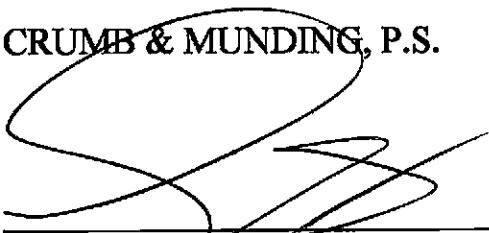
1 Partnership. There are no parent corporations or other publicly traded companies
2 which hold more than a 10% interest in Defendant Unifund CCR Partners.
3

4 Credit Card Receivables Fund, Inc. is an Ohio for profit corporation. There are
5 no parent corporations or publicly held corporations holding more than 10% of the
6 outstanding shares of stock in Credit Card Receivables Fund, Inc.
7

8 ZB Limited Partnership is a Delaware limited partnership whose general partner
9 is ZBCCR, Corp. ZBCCR Corp. is a Delaware corporation. There are no parent
10 corporations or publicly traded companies which hold more than a 10% interest in ZB
11 Limited Partnership.
12

13 DATED this 29 day of May, 2009.

14 CRUMB & MUNDING, P.S.
15

16 
17 JOHN D. MUNDING, WSBA #21734
18 Attorneys for Defendants
19